

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DAVID A. SMITH

VS.

SEALIFT, INC. as operator of the M/V
HARRIETTE and SEALIFT, LLC as
owner of the M/V HARRIETTE

§
§
§
§
§
§

C. A. NO. 4:10-cv-00148

DESIGNATION OF EXPERTS OF
SEALIFT, INC. and SEALIFT, LLC

COME NOW Defendants Sealift, Inc. and Sealift, LLC (“Defendants”), and in compliance with this Court’s Docket Control Order, the Texas Rules of Civil Procedure and the agreement of the parties, file their Designation of Expert Witnesses. Defendants hereby designate experts who may be called by deposition or live at trial to give testimony in this matter as follows:

I.

Defendants designate the following experts, each of whom has been specially retained for litigation purposes by the Defendants and who may be called as an expert witness to give testimony in the form of opinions based on their education, training, background, and review of the evidence in this matter, as well as (in some instances) on independent examination, evaluation, and/or testing.

1. Dr. David Baskin
Methodist Neurological Institute
6560 Fannin, Suite 944
Houston, Texas 77030-2706
(713) 441-3800

Dr. Baskin is a board certified neurosurgeon who may offer opinions on medical issues including, but not limited to, his physical examination and evaluation of Plaintiff David A. Smith; Plaintiff’s past, present, and future medical condition as they relate to the

allegations in this lawsuit; diagnosis; prognosis; restrictions and limitations, if any; disability, if any; employability; and, the reasonableness and medical necessity of any and all past or proposed medical procedures and/or treatment the Plaintiff has undergone or may undergo in the future. Dr. Baskin's opinions herein, as well as the bases and reasons for his opinions and the data and other information considered by him in forming his opinions, are set forth in his expert report, a copy of which, together with his curriculum vitae and case list, is being produced to counsel for Plaintiff contemporaneously herewith (SEA 0532 – SEA 0586).

2. Dr. Bruce Weiner
12930 E. Freeway
Houston, Texas 77015
(713) 453-6909

Dr. Weiner is a board certified orthopedic surgeon who may offer opinions on medical issues including, but not limited to, his physical examination and evaluation of Plaintiff David A. Smith; Plaintiff's past, present, and future medical condition as they relate to the allegations in this lawsuit; diagnosis; prognosis; restrictions and limitations, if any; disability, if any; employability; and, the reasonableness and medical necessity of any and all past or proposed medical procedures and/or treatment the Plaintiff has undergone or may undergo in the future. Dr. Weiner's opinions, as well as the bases and reasons for his opinions and the data and other information considered by him in forming his opinions, are set forth in his expert report, a copy of which, together with his curriculum vitae and case list, has previously been produced to counsel for Plaintiff (SEA 0513 – SEA 0531).

3. Captain Gregg W. Nichols
Helm Logistics, LLC
P.O. Box 6425
Houston, Texas 77325
(281) 361-4494

Capt. Nichols is a master mariner, pilot, marine consultant and surveyor who may provide expert testimony on matters including, but not limited to: causation; the duties and liabilities of the entities and individuals involved in the incident at issue herein; the operation underway at the time of the incident including deployment and use of a pilot ladder, proper and safe procedures during and related to the operations underway at the time of the incident; the relative fitness of the M/V HARRIETTE at times relative hereto; and other liability issues in this case. Capt. Nichols's opinions herein, as well as the bases and reasons for his opinions and the data and other information considered by him in forming his opinions, are set forth in Capt. Nichols' expert report, a copy of which, together with his curriculum vitae, case list, and fee schedule is being produced to counsel for Plaintiff contemporaneously herewith (SEA 0615 – SEA 658).

4. Dr. William Burke
William H. Burke & Associates
Noble's Island #7
500 Market Street
Portsmouth, New Hampshire 03801
(603) 431-4762

Dr. Burke is a board certified rehabilitation counselor who will offer opinions on issues, including, but not limited to: David A. Smith's job description and requirements; present and future employment opportunities; transferable skills; and, past, present and future earning capacity. Dr. Burke's opinions herein, as well as the bases and reasons for his opinions and the data and other information considered by him in forming his opinions, are set forth in his expert report, a copy of which, together with his curriculum vitae and case list is being produced to counsel for Plaintiff contemporaneously herewith (SEA 0587 – SEA 0614).

5. Dr. James Yeager
14 Westpoint Drive
Missouri City, Texas 77459
(281) 431-6200

Dr. Yeager is a Ph.D. economist who will provide forensic economic analysis of Plaintiff's alleged economic damage claim including Plaintiff's earning capacity, worklife expectancy, the opinions of Plaintiff's retained expert, Dr. Kenneth McCain; etc. Dr. Yeager's opinions herein, as well as the bases and reasons for his opinions and the data and other information considered by him in forming his opinions, are set forth in his expert report, a copy of which, together with his curriculum vitae and case list, is being produced to counsel for Plaintiff contemporaneously herewith (SEA 0659 - SEA 0670).

II.

Defendants reserve the right to elicit, by way of cross-examination, opinion testimony from experts designated and called by Plaintiff in this lawsuit or any prior lawsuits. In so stating, Defendants are not stipulating to the expertise and/or qualifications of any such individual and do not hereby adopt, agree to and/or incorporate any adverse opinion expressed by any of these individuals. Defendants express their intention to possibly call, as witnesses associated with an adverse party, any of Plaintiff's experts as listed below:

1. Henry Woods, III
16850 Saturn Lane, Suite 100
Houston, Texas 77058
(281) 486-4552
2. Kenneth G. McCain, Ph.D., CFA
7670 Woodway, Suite 171
Houston, Texas 77063
(713) 626-0144

III.

Defendants reserve the right to call Plaintiff's treating physicians and other health care providers or counselors as experts. In so stating, Defendants are not stipulating to the expertise and/or qualifications of any such individual and do not hereby adopt, agree to and/or incorporate any adverse opinion expressed by any of these individuals. These individuals may offer testimony regarding issues including, but not limited to, the Plaintiff's physical and/or mental condition, diagnosis, treatment, prognosis, etc. The list may include, but is not limited to, the following individuals and/or medical providers and/or custodians of records at the following facilities:

1. Dr. Roy Smith
Bone & Joint Clinic of Houston
6624 Fannin, Suite 2600
Houston, TX 77030
(713) 790-1818
2. Dr. William Jay Bryan
6550 Fannin, Suite 2600
Houston, TX 77030
(713) 441-3470
3. Clear Lake Orthopedics
520 Blossom St.
Webster, Texas 77598
(713) 453-8551

4. Clear Lake Regional Medical
500 Medical Center Blvd
Webster, Texas 77598
(281) 338-3133
5. Dr. Charles B. Covert
800 Bering Dr., Suite 202
Houston, Texas 77057
(713) 975-1975
6. Foundation Surgical Hospital
6410 W. Loop South
Bellaire, Texas 77401
(713) 314-4100
7. Kenneth Huete, DC
3429 W. Holcomb
Houston, Texas 77025
(713) 661-3190
8. Kelsey Seybold Clinic
8900 Lakes @ 610 Drive
Houston, Texas 77054
(832) 460-6346
9. Jean K. Lerner LCSW
6300 West Loope South, Suite 470
Bellaire, Texas 77401
(713) 660-7200
10. Dr. D. Lionberger
Scurlock Tower, Suite 1016
Houston, Texas 77030
(713)333-4100
11. MCH Sunset
1707 Sunset Blvd
Houston, Texas 77005
(713) 529-3098
12. Dr. Cynthia Williams
Medical Clinic of Houston
1707 Sunset Blvd
Houston, Texas 77005
(713) 529-3098

13. Dr. Zoran Cupic
Memorial Bone and Joint
909 Frostwood, Suite 251
Houston, Texas 77024
(713) 832-9316
14. Memorial Hermann Hospital
6411 Fannin Street
Houston, Texas 77030
(713) 704-4000
15. Memorial Hermann City Hospital
921 Gessner
Houston, Texas 77024
(713) 722-7506
16. Memorial MRI & Diagnostics
1346 Campbell Road
Houston, Texas 77055
(713) 461-3399
17. Premier Specialties, Inc.
8800 B. Shoal Creek Blvd
Austin, Texas 78757
18. St. Luke's Episcopal Hospital
6720 Bertner
Houston, Texas 77025
(832) 355-1000
19. Upright MRI of Sugarland, LLP
2655 Cordes Drive, # 159
Sugarland, Texas 77479
(281) 494-0505
20. Dr. Stuart Weil
6624 Fannin Street, Suite 2140
Houston, Texas 77030
(713) 794-0500
21. Dr. Terry Williams
12 Professional Park
Webster, Texas 77598
(281) 332-8574

22. Dr. Lynn Pearson
208 Craig Street
Jasper, Texas 77591
23. Dr. Richard Marietta
1099 Texas Avenue
Webster, Texas
(713) 486-5498
24. Dr. Thomas Padgett
7400 Fannin, Suite 1130
Houston, Texas 77054

IV.

The following individuals have been identified as fact witnesses herein. They have not been specially retained by the Defendants, and the Defendants are not stipulating to the expertise and/or qualifications of any such individual and do not hereby adopt, agree to and/or incorporate any adverse opinion expressed by any of these individuals. Defendants reserve the right to call the following individuals and/or representatives of the indicated businesses as experts to give evidence in the form of opinions within the scope of his expertise:

1. David A. Smith, Plaintiff
c/o Mr. Jim Hart
Mr. Eloy Gaitan
Williams, Kherkher, Hart & Boundas
8441 Gulf Freeway, Suite 600
Houston, Texas 77017-5051
2. Crewmembers of the M/V HARRIETTE with knowledge of the operations underway at the time of and relevant to the alleged incident; Plaintiff's job performance and activities at times relevant hereto; policies and procedures applicable to a pilot being onboard and boarding the vessel; deployment and use of a pilot ladder; the condition of the M/V HARRIETTE and its equipment at issue herein; etc.
 - a. Captain Valentine
c/o Robert L. Klawetter
Eastham, Watson, Dale & Forney

- b. Chief Officer Joseph Mazzaferro
c/o Robert L. Klawetter
Eastham, Watson, Dale & Forney
- c. OS Jeff Amestoy
8464 Goggin Street
Valley Springs, CA 95252
(209) 786-0226
- 3. Kenneth Jones
1407 Lost Ridge Circle
Seabrook, Texas 77586
(832) 721-8996

Captain Jones is Houston Pilot who was onboard the Bayou City at the time of the alleged incident.
- 4. John Blomquist
1218 Spring Cress Lane
Taylor Lake Village, Texas 77586
(281) 615-5541
Captain Blomquist is Houston Pilot who was onboard the Bayou City at the time of the alleged incident.
- 5. Curtis Leger
P.O. Box 205
Dallardsville, Texas 77332
(936) 327-1971
Mr. Leger was a member of the crew of the Bayou City at the time of the alleged incident.
- 6. Andrew Blasdel
11914 25th Street
Santa Fe, Texas 77510
(281) 770-9286
Mr. Blasdel was a member of the crew of the Bayou City at the time of the alleged incident.
- 7. Corporate representative(s) and/or employees of
Sealift, Inc and
Sealift LLC
c/o Robert L. Klawetter
Eastham, Watson, Dale & Forney

Corporate representative(s) and/or employees of Defendants have knowledge of the applicable policies and procedures related to operations underway at the time of the

incident; deployment and use of a pilot ladder; the condition of the M/V HARRIETTE and its equipment relevant hereto; etc.

8. Thomas Pace
Presiding Officer of Houston Pilots
8211 La Porte Freeway
Houston, Texas 77012
Mr. Pace is the presiding officer of the Houston Pilots and has relevant knowledge of Plaintiff's earnings and expenses, Plaintiff's status as an independent contractor and shareholder of the Houston Pilots, Plaintiff's work and claims history, the physical requirements of a pilot, proper procedures for embarking and disembarking vessels via a pilot ladder, reporting alleged injuries, etc.
9. Kenneth McCain
Three Riverway, Suite 650
Houston, Texas 77056
Dr. McCain evaluated Plaintiff's economic damages in a prior personal injury lawsuit.
10. James B. Galbraith
McLeod, Alexander, Powel & Apffel, P.C.
802 Rosenberg
Galveston, Texas 77550
(409) 763-2481
Mr. Galbraith defended a prior personal injury lawsuit brought by Defendant.
11. Robert L. Knight
Amoco Oil Company
2401 5th Avenue S.
Texas City, Texas 77591
Mr. Knight has knowledge of the claims Plaintiff made in a prior personal injury lawsuit.
12. Employee's and/or representatives of
Doyle's Pharmacy
2425 Sunset Blvd
Houston, Texas 77005
(713)526-1771
13. Employee's and/or representatives of
Walgreens Pharmacy
280 Buffalo Speedway
Houston, Texas 77005
14. Employee's and/or representatives of
Genworth Life Insurance Company
3100 Albert Lankford Dr.
Lynchburg, Virginia 24501

15. Employee's and/or representatives of
Monarch Life Insurance Company
220 Whitney Ave, Suite 500
Holyoke, Massachusetts 01040
16. Employee's and/or representatives of
Prudential Insurance Company of America
Disability Management Services
P.O. Box 13400
Philadelphia, Pennsylvania 19175
17. Employee's and/or representatives of
MM&P Health and Benefit Plan
700 Maritime Blvd, Suite A
Linthicum Heights, Maryland 21090

V.

Defendants reserve the right to supplement this designation with additional designations of experts within the time limits imposed by the Court or any alterations of same by subsequent Court Order or agreement of the parties, or pursuant to the Texas Rules of Civil Procedure and/or the Texas Rules of Evidence.

VI.

Defendants reserve the right to elicit, by way of cross-examination, opinion testimony from experts timely designated and called by any other party to the suit.

VII.

Defendants reserve the right to call undesignated rebuttal expert witnesses whose expert testimony cannot be reasonably foreseen until the presentation of the evidence.

VIII.

Defendants reserve the right to withdraw the designation of any expert and to aver positively that any such previously designated expert will not be called as a witness at trial, and to redesignate same as a consulting expert, who cannot be called by opposing counsel.

IX.

Defendants reserve the right to elicit any expert opinion or lay opinion testimony at the time of trial which would be truthful, which would be of benefit to the Court and/or Jury to determine material issues of fact, and which would not be violative of any existing Court Order or the Texas Rules of Civil Procedure.

X.

Defendants hereby designate, as adverse parties, potentially adverse parties, and/or as witnesses associated with adverse parties, all other parties to this suit and all experts designated by any party to this suit, even if the designating party is not a party to the suit at the time of trial. In the event a present or future party designates an expert but then is dismissed for any reason from the suit or fails to call any designated expert, Defendants reserve the right to designate and/or call any such party or any such experts previously designated by any party.

XI.

Defendants reserve whatever additional rights they may have with regard to experts, pursuant to Federal Rules of Civil Procedure, the Federal Rules of Evidence, the case law construing same, and the rulings of the court.

Respectfully submitted,

/s/ Robert L. Klawetter

Robert L. Klawetter
State Bar No. 11554700
Christina K. Schovajsa
State Bar No. 24002910
20th Floor, Niels Esperson Building
808 Travis Street
Houston, TX 77002
Telephone: (713) 225-0905
Facsimile: (713) 225-2907

Attorneys for Defendants
Sealift, Inc. and Sealift, LLC

OF COUNSEL:

EASTHAM, WATSON, DALE & FORNEY, L.L.P.

CERTIFICATE OF SERVICE

I certify that I filed the foregoing pleading on **October 22, 2010**, electronically, and that a true and correct copy of the foregoing will be served on counsel of record via the Electronic Case Filing System of the United States District Court for the Southern District of Texas, Houston Division, and/or by certified mail, return receipt requested, as enumerated below.

/s/ Robert L. Klawetter

Robert L. Klawetter

VIA CM/ECF SYSTEM

Mr. Jim Hart
Mr. Eloy Gaitan
Williams, Kherkher, Hart & Boundas
8441 Gulf Freeway, Suite 600
Houston, Texas 77017-5051